

STATE OF COLORADO

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

CERTIFIED MAIL # P 319 357 792
Return Receipt Requested

August 22, 1994

Mr. Steven W. Slaten
U.S. Department of Energy
Rocky Flats Office
P.O. Box 928
Golden, Colorado 80402-0928

ADMIN RECORD

RE: OU9 Tanks

Dear Mr. Slaten,

In response to your 94-DOE-07880 letter dated August 5, 1994, the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (the Division), is repeating our position that tanks defined as being part of OU9 must be investigated and closed through the authority of the Interagency Agreement.

DOE formally proposed to defer the investigation of active tanks in its Technical Memorandum #1 for OU9, dated March 2, 1994 (Field Sampling Plan, Volume I, Part A - Outside Tanks). The Division's comments on TM1, dated April 11, 1994, made it clear that we would not accept indefinite deferral of the investigation and closure of OU9 tanks that are still in use. Since that time, staff from all parties have attempted to define alternative mechanisms to satisfy the substantive requirements of the IAG. Unfortunately, none of the options we have discussed to date are viable.

It is recognized that the Original Process Waste Lines and affiliated tanks are part of a complex system with a diverse regulatory history. Many of the original tanks have been put to use in other capacities without having undergone appropriate closure at the time they were taken out of service. Some tanks have appeared on various DOE Part A permit applications; however, tanks for which DOE is not seeking a Part B permit should have been closed at the time the tank ceased its hazardous waste management activities. Moreover, some of the tanks in question do not even appear on the combined Part A submittal (revision 4, May 1992), which is the most recent comprehensive list of units for which the Division has granted interim status. Tanks that do not have official regulatory status do not have the RCRA closure plan path available to them and must close under OU9 in the IAG. None of the tanks are in the Part B permit. Therefore, we are unable to accept your proposal to investigate T-8 and T-9 under separate closure plans.

Even if tanks have been incorporated into other uses that have been granted interim status, straight RCRA closure will not fully satisfy all IAG requirements, particularly CERCLA administrative needs and any technical concerns associated with radioactive contamination. Our comments on TM1 indicated that tanks which are part of RCRA unit series 40 must be closed under interim status requirements; while technically accurate, we are still requiring that they be included in the OU9 investigation to completely fulfill their IAG obligations, of which closure is but a portion. For the purposes of TM1, Volume I, Part A, we require the inclusion of T-24 and T-32 south of Building 881.

These issues date back to 1991, where Division comments on the draft OU9 RFI Workplan state "tanks that were part of the old system that have either been removed or permanently sealed still need to be investigated. In addition, tanks that were incorporated into the new system also need an evaluation".

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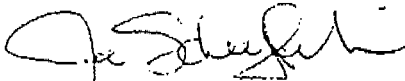
The Interagency Agreement is the mechanism that all parties agreed to use to achieve closure of these IHSSs. This approach involves using the approved Phase I RFI Workplan as the investigation and an IM/IRA as the action to achieve closure. The Division continues to view the IAG as not only the legally enforceable mechanism for investigation of these units, but also as the most flexible and adaptable alternative of those DOE has explored. Any departure from this approach would incur significant additional delays. We interpret the unwillingness on the part of DOE's Environmental Restoration Division to conduct this work for fear of setting a precedent on the management of active units to be strictly an internal DOE problem. DOE RFFO owns the tanks and DOE RFFO owns the responsibility of complying with the IAG. We cannot approve your request to remove OU9 tanks from the IAG as a modification to work without DOE having satisfied all the provisions of the agreement. To the extent that DOE RFFO can maintain compliance with the IAG, we are willing to consider alternatives that alleviate DOE's internal ownership issues. In other words, if DOE Operations (as the owners of the tanks) wants to assume responsibility for the Workplan and subsequent IM/IRA implementation, that would be acceptable.

Our approval to TM1 was conditional and required a resolution of this issue. In the four months since our letter, DOE has not given the Division an acceptable plan to comply with this condition. As a result, we are left with no choice but to consider TM1 as remaining unapproved. When DOE agrees to investigate the OU9 tanks as required by the IAG, we can allow the investigations proposed in TM1 to proceed while sampling plans are developed concurrently for the additional tanks. This is the identical condition we originally placed on TM1 in April.

We would appreciate a prompt response outlining DOE's intentions towards meeting these requirements. Due to the amount of time already elapsed, we require a written letter response from DOE within 21 calendar days of its receipt of this letter.

If you have any questions regarding these matters, please call [REDACTED] 692-3415.

Sincerely,



Joe Schieffelin, Unit Leader
Rocky Flats IAG Unit
Hazardous Waste Control Program

cc: Arturo Duran, EPA
Regina Sarter, DOE
Bruce Peterman, EG&G
Laura Perrault, AGO
Steve Tarlton, RFFU